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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,494	05/16/2006	Jeffrey Bruce McGeorge	CULLP0193US	9315

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EXAMINER

THOMPSON, MICHAEL M

ART UNIT

PAPER NUMBER

3629

MAIL DATE

DELIVERY MODE

07/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/561,494

Applicant(s)

MCGEORGE, JEFFREY BRUCE

Examiner

Michael M. Thompson

Art Unit

3629

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-8 and 10.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/JOHN G. WEISS/
Supervisory Patent Examiner, Art Unit 3629

/Michael M Thompson/
Examiner, Art Unit 3629

Continuation of 3. NOTE: Various additions to the claims include a network of computers, discrete time steps, determinations of real-time, and/or confirming the occurrence of a change. .

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's assertion that the rejection of the claims under 35 U.S.C. 101 is not necessitated by the amendments is incorrect based on the claim language itself. In particular, the original (prior to amendment) claim 1 presented by applicant reads in part, "the service provider providing a real-time alert message to the principal via a remote communications device (RCD) when a change occurs..." was originally interpreted as including statutory subject matter under the policies and guidelines prior to January 2009. This recitation recites that the remote communications device is providing the alert message. For these reasons there is a technology providing communications such as the case might be with an automated notification system. In either event, the RCD device is providing the message. In Applicant's new claims, they were amended to include steps being executed. This raised the question as to whether the additional steps are being executed by a particular machine/technology (as per post January Guidelines) other than the RCD device. At a minimum, each of the steps/amendments signal a shift in the scope of the claim that raise the statutory question. The amendment reciting terms such as receiving, applying and causing raised additional questions in comparison to the original claim. In particular step e. is the greatest cause for concern. For example, something is "causing" the alert message "to be provided" to the user via the RCD. No longer does the RCD appear to be doing "the providing" as this language was struck from the recitation. Now it appears that something is "causing" the message to be provided to the RCD. This language is potentially a broadening of the scope of the claim with respect to this limitation. In the least, it reemphasizes that the RCD may not be "providing" or "causing" the alert message. In this sense, the question is whether applicant has properly disclosed the "particular machine" that is responsible for causing the real-time alert message. Similarly, this interpretation and change in the scope of the claims also pulls into question whether the RCD is only intended to provide extra-solution activity as stated in the final office action. Therefore, the claim limitations themselves as amended have in fact raised the question as to what Applicant intended the scope of the claims to include. In conclusion, it is the Examiner's position that the new rejection was necessitated by amendment and the Final Rejection was proper.